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Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

In Re:

GEORGE MKITARIAN

Debtor

CHAPTER 13
CASE NO. 2:22-bk-15448-VZ

MOTION OBJECTING TO CLAIM
No: 3 ON THE BANKRUPTCY
COURT'S CLAIMS REGISTER, OF
THE DEPARTMENT OF TRASURY -
INTERNAL REVENUE SERVICE;
REQUEST CLAIM TO BE
DISALLOWED;

Date: 5/08/2023
Time: 11:30 AM
Place: 255 E. Temple St.,
Los Angeles, CA 90012

Courtroom 1368
Floor: 13th

**TO THE VINCENT P. ZURZOLO, UNITED STATES BANKRUPTCY
JUDGE, CHAPTER 13 TRUSTEE, AND ALL OTHER INTERESTED PARTIES:**

George Mkitarian (herein "Debtor") hereby objects to the proof of claim of the Department
of Treasury-Internal Revenue Service (herein "IRS") filed in the within case as follows:

I. STATEMENT OF FACTS

The IRS filed a Proof of Claim (herein "POC") on November 15, 2022, referenced as
Claim No: 3 on the Bankruptcy Court's Claim Register. The POC includes Assessed Taxes for
the years 2008, 2009, 2010, 2012 and 2013 and in addition Estimated Taxes (no returns filed) for
the years 2016, 2017, 2019, 2020, and 2021 in the total amount of \$49,667.52. Attached hereto
as Exhibit "1" is a true and correct copy of the IRS's proof of claim.

Due to financial and health issues the debtor had not been able to file all of his tax returns

1 as indicated above. The debtor is in the process to have prepared and to file his tax returns for
2 the years 2016, 2017, 2019, 2020, and 2021 as stated as above. Upon receipt of his filed tax
3 returns, the debtor respectfully requests, that the IRS amend it's proof of claim after the IRS
4 reviewed the debtor's filed tax returns.

5 **II. ARGUMENT**

6 **A. RESPONDENT CANNOT MEET ITS BURDEN OF**
7 **PROOF TO PROVE ITS CLAIM BY A**
8 **PREPONDERANCE OF THE EVIDENCE.**

9 Upon objection to a proof of claim, once the moving party produces evidence and shows
10 facts tending to defeat a claim, the ultimate burden of proof lies with the claimant to establish the
11 validity of the claim based on a preponderance of the evidence. In re Polo Club Apartments
12 Associates Ltd. Partnership, 150 B.R. 840 (1993), Bankr. Rule 3001(f). If the Debtor meets the
13 burden of presenting evidence to rebut the presumed *prima facie* validity of a creditor's claim,
14 then the creditor must present evidence to prove the claim and the ultimate burden of proof is
15 therefore on the creditor to prove the claim. In re MacFarlane, 83 F.3d 1041-43 (9th Cir. 1996),
16 citing In re Holm, 931 F.2d 620, 623 (9th Cir. 1991), and U.S. v. Sampsell, 224 F.2d 721, 722-23
17 (9th Cir. 1955). Thus, since the evidence presented herein rebuts the presumed validity of the
18 claim, Respondent bears the ultimate burden of proof to show the validity of the claim.

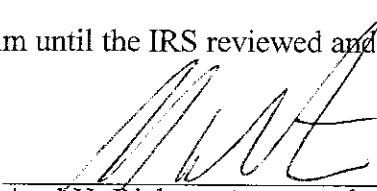
19 **B. THE VALIDITY OF THE TAX CLAIM NEEDS TO BE**
20 **ESTABLISHED BASED ON THE DEBTOR'S FILED TAX**
21 **RETURNS.**

22 The tax assessments on the Respondent's proof of claim are based on "Estimated - No
23 Tax Returns Filed", are allegedly different from a tax assessment, if the Debtor had filed his tax
24 returns and the returns had been received and reviewed by respondent. The correct tax assessed
25 amounts to be determined by the IRS upon review of the filed returns.

26 **III. CONCLUSION**

27 Therefore, based on the foregoing statutory and decisional authority, it is respectfully
28 requested that the court disallow the IRS claim until the IRS reviewed and amended it's proof of
claim based on Debtor's filed tax returns.

DATED: March 22, 2023


Axel H. Richter, Attorney for Debtor

DECLARATION OF GEORGE MKITARIAN

1. George Mkitarian, declare and state as follows:

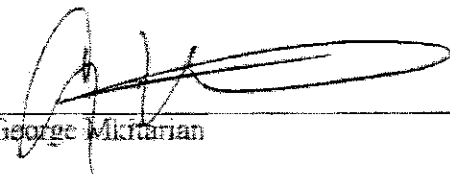
1. I am over the age of eighteen years and I am the debtor in case number 2:22-bk-15448-VZ. I have personal knowledge of the facts contained herein and could and would competently testify thereto if called as witnesses.

2. The IRS filed a Proof of Claim (herein "POC") on November 15, 2022, referenced as Claim No. 5 on the Bankruptcy Court's Claim Register. The POC includes Assessed Taxes for the years 2008, 2009, 2010, 2012 and 2013 and in addition Estimated Taxes (no returns filed) for the years 2016, 2017, 2019, 2020, and 2021 in the total amount of \$49,667.52.

3. Due to financial and health issues I had not been able to file all of my tax returns as indicated above. I am in the process to have prepared and file my tax returns for the years 2016, 2017, 2019, 2020, and 2021 as stated as above. Upon receipt of my filed tax returns, I respectfully request that the IRS amend it's proof of claim after the IRS reviewed my filed tax returns.

I declare under the penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed on this 22nd day of March, 2023 at Culver City, California.


George Mkitarian

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

11949 West Jefferson Blvd., Suite 107, Culver City, CA 90230

A true and correct copy of the foregoing document entitled (*specify*): **OBJECTION TO CLAIM No 3, ON THE BANKRUPTCY COURT'S CLAIMS REGISTER, OF THE INTERNAL REVENUE SERVICE**; will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **3/23/2023**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **3/23/2023**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

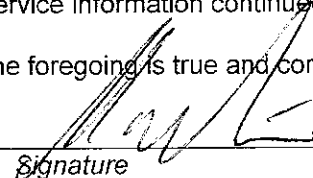
3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

3/23/2023
Date

Axel Richter
Printed Name


Signature

SERVICE LIST

SERVED ELECTRONICALLY	SERVED BY U.S.MAIL
Nancy Curry CHAPTER 13 TRUSTEE TrusteeECFMail@gmail.com	Honorable Vincent P. Zurzolo United States Bankruptcy Court 255 E. Temple St., Suite 1360 Los Angeles, CA 90012
Dane W Exnowski Dane.exnowski@mcalla.com , bk.ca@mcalla.com mccallarcf@ecf.courtdrive.com	Internal Revenue Service PO Box 7346 Philadelphia, PA 19101-7346
Nichole Glowin bankruptcy@zbslaw.com , nglowin@ecf.courtdrive.com	BK Specialist: Internal Revenue Service Insolvency Group 1 300 N. Los Angeles Street, M/S 5022 Los Angeles, CA 90012
United States Trustee ustregion16.la.ecf@usdoj.gov	Attorney General United States of Justice Ben Franklin Station P.O. Box 683 Washington, DC 20044
	United States Attorney's Office Attn: Eileen M. Decker, Esq., Et al Federal Building, Room 7211 300 North Los Angeles, Street Los Angeles, CA 90012

EXHIBIT 1

Fill in this information to identify the case:

Debtor 1 GEORGE MKITARIAN

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: CENTRAL District of CALIFORNIA

Case number 2:22-BK-15448-VZ

Official Form 410

Proof of Claim

04/22

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both, 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?

Department of Treasury - Internal Revenue Service

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else?

☒ No

☐ Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?

Where should notices to the creditor be sent?

Where should payments to the creditor be sent? (if different)

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Internal Revenue Service

Internal Revenue Service

Name

Name

P.O. Box 7346

P.O. Box 7317

Number Street

Number Street

Philadelphia

PA

19101-7346

Philadelphia

PA

19101-7317

City

State

ZIP Code

City

State

ZIP Code

Contact phone 1-800-973-0424

Contact phone 1-800-973-0424

Contact email _____

Contact email _____

Creditor Number: 41309758

Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____

4. Does this claim amend one already filed?

☒ No

☐ Yes. Claim number on court claims registry (if known) _____

Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?

☒ No

☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☐ No
☒ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: See Attachment

7. How much is the claim? \$ 49,667.52. Does this amount include interest or other charges?
☐ No
☒ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Taxes _____

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.

Nature of property:

- ☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____

Basis for perfection: _____

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %

- ☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☐ No
☒ Yes. Identify the property: See Attachment

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☐ No

☒ Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$3,350* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☐ Wages, salaries, or commissions (up to \$15,150*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☒ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ 19,503.23

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/25 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☒ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 11/15/2022
MM / DD / YYYY

/s/ M. BAK

Signature

Print the name of the person who is completing and signing this claim:

Name	M. BAK		
	First name	Middle name	Last name
Title	Bankruptcy Specialist		
Company	Internal Revenue Service		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	IRS Insolvency Group 7 24000 AVILA ROAD 3rd Floor, M/S 5503		
	Number Street	CA	92677
	LAGUNA NIGUEL	State	ZIP Code
	City		
Contact phone	(949) 575-6197	Email	Myong.O.Bak@irs.gov

Proof of Claim for Internal Revenue Taxes



Form 410
Attachment

Department of the Treasury/Internal Revenue Service

In the Matter of: GEORGE MKITARIAN
3019 WILSHIRE BLVD #290
SANTA MONICA, CA 90403

Case Number
2:22-BK-15448-VZ
Type of Bankruptcy Case
CHAPTER 13
Date of Petition
10/05/2022

The United States has the right of setoff or counterclaim. However, this determination is based on available data and is not intended to waive any right to setoff against this claim debts owed to this debtor by this or any other federal agency. All rights of setoff are preserved and will be asserted to the extent lawful.

Unsecured Priority Claims under section 507(a)(8) of the Bankruptcy Code

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
XXX-XX-6552	INCOME	12/31/2019	1 1-ESTIMATED-SEE NOTE	\$2,271.20	\$204.59
XXX-XX-6552	INCOME	12/31/2020	1 1-ESTIMATED-SEE NOTE	\$8,771.82	\$469.69
XXX-XX-6552	INCOME	12/31/2021	1 1-ESTIMATED-SEE NOTE	\$7,618.40	\$167.53
				\$18,661.42	\$841.81

Total Amount of Unsecured Priority Claims: \$19,503.23

Unsecured General Claims

Taxpayer ID Number	Kind of Tax	Tax Period	Date Tax Assessed	Tax Due	Interest to Petition Date
XXX-XX-6552	INCOME	12/31/2008	02/07/2011	\$0.00	\$1,587.86
XXX-XX-6552	INCOME	12/31/2009	02/07/2011	\$4,220.00	\$2,612.46
XXX-XX-6552	INCOME	12/31/2010	12/03/2012	\$3,734.00	\$1,987.24
XXX-XX-6552	INCOME	12/31/2012	06/08/2015	\$0.00	\$121.64
XXX-XX-6552	INCOME	12/31/2013	06/08/2015	\$0.00	\$442.67
XXX-XX-6552	INCOME	12/31/2016	1 1-ESTIMATED-SEE NOTE	\$2,306.80	\$601.51
XXX-XX-6552	INCOME	12/31/2017	1 1-ESTIMATED-SEE NOTE	\$2,089.40	\$440.50
				\$12,350.20	\$7,793.88

Penalty to date of petition on unsecured general claims (including interest thereon) \$10,020.21

Total Amount of Unsecured General Claims: \$30,164.29

Continued from Page 1

1 LIABILITY IS ESTIMATED BASED ON AVAILABLE INFORMATION BECAUSE THE RETURN HAS NOT BEEN FILED. THIS CLAIM MAY BE AMENDED AS NECESSARY AFTER THE DEBTOR FILES THE RETURN OR PROVIDES OTHER REQUIRED INFORMATION.